IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

LA.App..No. 1056 of 2005(D)

LAR.82/2002 of ADDL.SUB COURT,KOTTAYAM
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APPELLANTS/CLAIMANTS
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1. JOHN, S/O.MANI, VARANGANA PUTHOOR,
THEKKEKARA, PERUVA.

2. KURIAKOSE, S/O.MANI, VARANGARA PUTHOOR,
THEKKEKARA, PERUVA.

BY ADV. SRI.RAJEEV V.KURUP

RESPONDENT/RESPONDENT

THE STATE OF KERALA, REPRESENTED BY THE
DISTRICT COLLECTOR, KOTTAYAM.

BY GOVERNMENT PLEADER L.G.SURESH BABU

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 20/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

L.A.A .NO. 1056 OF 2005

Dated 20th February 2007

J U D G M E N T

Learned counsel appearing for appellants and learned Government Pleader were heard.

2. Claim for enhanced compensation raised by appellants were referred to the court under Section 18 of Land Acquisition Act. Land Acquisition court took up the case as L.A.R.82/02. On 27/11/2003 for the reason that there was no representation for claimant and no evidence was adduced, reference case was dismissed confirming the award granted by Land Acquisition Officer. This appeal is filed challenging the said judgment.

3. Learned counsel appearing for appellants pointed out that in L.A.R.75/02 for nearby properties acquired under the same notification, same court has granted enhanced compensation and appellants were not aware of posting of the case and finding that L.A.R case has been disposed they filed an application under Order IX Rule 9 of Code of Civil Procedure to

restore the case but it was dismissed and in such circumstances, an opportunity should be granted to prove the case. In such circumstances, in the interest of justice appellants are to be granted an opportunity to have a decision on merit.

Appeal is allowed. Judgment in L.A.R.82/02 on the file of Additional Sub court, Kottayam is set aside. L.A.R is restored to file and is remanded back to learned Sub Judge for disposal in accordance with law. Parties are directed to appear before Sub court on 10/4/2007. Refund half of the court fee payable.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.